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REPORT
No. 2326

ADJUSTMENT IN COMPENSATION OF CERTAIN CUSTODIAL EMPLOYEES TRANSFERRED UNDER REORGANIZATION PLAN NO. 18 OF 1950

JUNE 27, 1952.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. LESINSKI, from the Committee on Post Office and Civil Service, submitted the following

REPORT

[To accompany H. R. 8006]

The Committee on Post Office and Civil Service, to whom was referred the bill (H. R. 8006) to provide for an adjustment in the compensation of certain employees transferred from the field service of the Post Office Department to the General Services Administration pursuant to Reorganization Plan No. 18 of 1950, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

On page 1, line 3, strike out beginning with the word "who" down through "1950," in line 4 and insert in lieu thereof "transferred"; line 6, strike out beginning with the comma down through "had" in line 7 and insert in lieu thereof "who has"; line 7, strike out beginning with the word "during" down through "June 30, 1950," in line 8 and insert in lieu thereof "prior to such transfer"; line 8, strike out "as of July 1, 1950".

On page 2, line 6, after the word "shall" strike out the comma and "effective as of July 1, 1950,"; lines 12 and 18 strike out "on June 30, 1950," and insert in lieu thereof "prior to such transfer".

On page 3, line 8, insert after "same" the words "or equivalent rate of pay or"; line 21, strike out "paid" and insert in lieu thereof "paid, if otherwise due under this Act,".

On page 4, line 1, strike out "and"; line 3, insert before the period a comma and the words "and (3) in accordance with Public Law 636, Eighty-first Congress, for services rendered during the period beginning July 1, 1950, and ending with the date of death".

PURPOSE OF AMENDMENTS

It is the purpose of the amendments to provide for (*a*) similar situations that may arise in the future, (*b*) proportionate adjustment in the compensation of transferred employees who are not under the Classification Act of 1949, as amended, and (*c*) payment according to present law of retroactive compensation, if otherwise due under the bill, for services rendered by deceased employees. The bill as introduced at the request of the General Services Administration covered only classified custodial employees transferred effective July 1, 1950, from the field service of the Post Office Department to the General Services Administration under Reorganization Plan No. 18 of 1950. It omitted any provision for retroactive pay increases that might be due for services rendered prior to death of transferred employees. These amendments are desirable to provide uniform treatment of all employees so transferred.

STATEMENT

This legislation as amended is addressed to the problem of custodial employees transferred from the field service of the Post Office Department to the General Services Administration along with transfer of jurisdiction of the buildings in which they work. The salaries of these employees are to be retained in their new employment status at the same rates which they were receiving in the postal service. The original transfer was July 1, 1950, the beginning of a quarter. About 250 of the 4,500 employees transferred at that time had completed service within their grades and were eligible for promotion to higher grades on July 1, 1950. However, because July 1 was the date of the transfer, these 250 employees never received the $100 salary increase to which they were entitled. It is anticipated also that there will be some occasions in the future when similar inequities will arise because of transfer of jurisdiction of buildings and custodial employees effective at the beginning of a quarter.

A second problem stemming from the transfer of these buildings will be met by this legislation. It relates to the changing of assignments within the General Services Administration after an employee has been transferred. At present the employee retains the salary he received before transfer if it is higher than the Classification Act pay schedule as long as he remains in the position in which he was transferred. If, however, he is transferred to a position other than the one he had before transfer, as for example the case of an elevator operator transferred to a watchman's, job, he might suffer a reduction in salary. This situation has created many administrative problems with respect to assignments, and has resulted in discrimination in the cases of some employees. The bill would permit the employee in such a situation to continue to receive the same salary he was receiving before transfer to a position calling for a lower salary.

Public hearings were held and testimony received from the General Services Administration and employee groups approving this legislation and concurring in the amendments.

The General Services Administration reported to the committee that the Comptroller General had ruled that the increases in compensation to which employees transferred July 1, 1950, were entitled could not be effected in certain cases because of applicable laws and Civil

Service Commission regulations. The report also referred to a decision of the Comptroller General that the "savings clause" in the Federal Employees Pay Regulations applied only so long as the employee continues to occupy the exact position he occupied at the time of his transfer. The General Services Administration submitted this proposed legislation to correct the resultant inequities.

The Acting Comptroller General reported to the committee that in view of the situation precipitated by operation of Reorganization Plan No. 18, resulting in the obvious unintended prevention of automatic increases which employees would have received but for the reorganizatin plan, he offered no objection to this legislation.

Since about 250 employees are entitled to increases of $100 per annum effective July 1, 1950, the cost of this legislation will be approximately $25,000 a year, beginning with that date, for the duration of these employees' services.

The letter of the Acting Administrator of General Services (which has the approval of the Bureau of the Budget) requesting this legislation and the favorable report of the Acting Comptroller General follow.

GENERAL SERVICES ADMINISTRATION,
Washington 25, D. C., August 13, 1951.

The honorable the SPEAKER OF THE HOUSE OF REPRESENTATIVES.

SIR: There is transmitted herewith, for the convenience of the appropriate committee, a suggested draft of legislation which provides for adjustments which it is believed should be made in the compensation of certain employees who were transferred to the General Services Administration from the Post Office Department pursuant to Reorganization Plan No. 18, effected July 1, 1950. The employees who would be affected by the enactment of this proposed legislation are those who are engaged in the operation and maintenance of those public buildings transferred to the jurisdiction of the GSA in accordance with the reorganization plan.

In the Post Office Department these employees were subject to the Postal Service Pay Act of July 6, 1945 (Public Law 134, 79th Cong.) which provided for annual automatic grade increases of $100 for each year of satisfactory service in the Post Office Department up to the maximum salary rate prescribed for their positions. In addition, these employees, while in the Post Office Department, were also subject to the provisions of Public Law 500, Eighty-first Congress, approved May 3, 1950, which established longevity grades A, B, and C, each grade providing for a $100 longevity promotion upon completion of required periods of service.

Both the provisions of Public Law 134 prescribing annual automatic promotions, and the provisions of Public Law 500 prescribing longevity promotions require that the promotions shall be effective at the beginning of the quarter following the completion of the required service. A number of former Post Office Department employees who were transferred to this Administration had completed, during the quarter ending June 30, 1950, the service required for an annual or longevity promotion, and would have received such a promotion effective July 1, 1950, had they been in the Post Office Department as of that date.

However, effective July 1, 1950, these employees were transferred to the GSA and the provisions of Public Laws 134 and 500 no longer applied to them as of that date. On July 1, 1950, upon their transfer to the GSA, the rates of compensation for their positions were fixed in accordance with the provisions of the Classification Act of 1949 (Public Law 429, 81st Cong.), and the regulations of the Civil Service Commission issued pursuant thereto.

Under section 1101 of the Classification Act of 1949 (Public Law 429, 63 Stat. 971)—authorizing the Civil Service Commission to issue such regulations as may be necessary for the administration of the act—the Commission issued section 25.103 (d) of the Federal Employees Pay Regulations, which makes the provisions of section 25.104 (b) (1) to (5) of such regulations applicable in determining the initial rate of basic compensation of an employee who, together with his position, is brought under the Classification Act of 1949 pursuant to the Reorganization Act of 1949 (63 Stat. 203), such as in the case of the employees here involved.

The regulations under the said section 25.104 (b) and under 25.104 (c) were issued to cover cases similar to the kind referred to in this letter, involving employees initially brought under the Classification Act.

Section 25.104 (b) of the said regulations provides in part as follows:

"(3) If the employee is receiving a rate of basic compensation within the range of salary prescribed for the grade in which his position is placed, but not at one of the rates fixed therein, his compensation shall be increased to the next higher rate.

"(4) If the employee is receiving a rate of basic compensation in excess of the maximum scheduled rate for the grade in which his position is initially placed, no change shall be made in his existing rate."

The "existing rate" of basic compensation, as that term is used in the provisions quoted above, is defined by section 25.102 (i) of the regulations as the rate received immediately prior to the effective date of the transfer, promotion, repromotion, demotion, or step increase.

When the Comptroller General was asked by this Administration, on October 30, 1950, if it would be possible to pay the annual and longevity increases for which these employees had completed sufficient service during the quarter ending June 30, 1950, he replied, in effect, on January 30, 1951, that in view of the above regulations of the Commission and the fact that neither Public Law 134 nor Public Law 500, Eighty-first Congress, applied to the compensation of these employees as of July 1, 1950, the increases could not be effected by this Administration and added to the compensation of those employees who transferred at salaries in excess of the maximum scheduled rate of the Classification Act grades in which their positions were classified, nor could they be taken into consideration in converting the rates of compensation received in the Post Office Department to a rate in the Classification Act grade in which their positions were placed upon transfer.

For example, the Comptroller indicated that, in the case of an elevator operator whose position was placed by this Administration in CPC–2 and who is currently receiving in excess of the maximum scheduled rate of the grade—i. e., $2,970 per annum, the rate he was receiving in the Post Office Department on June 30, 1950—and who had completed the required 13 years of service in the Department during the quarter ending June 30. 1950, for a longevity pay increase effective July 1, 1950, under Public Law 500, such longevity increase could not be effected for the employee for the reasons set forth above.

The General Services Administration believes that in fairness to the employees concerned legislation should be enacted which will enable the employees to receive the annual and longevity promotions for which they had completed all of the required service as of June 30, 1950, and which would have been effected for them on July 1, 1950, had they remained in the Post Office Department.

Another problem which has arisen with respect to the compensation of these employees who were transferred to this Administration from the Post Office Department pursuant to Reorganization Plan 18 is in connection with their subsequent reassignment within the General Services Administration between positions of the same Classification Act grade. The "savings clause" provided in the Federal Employees Pay Regulations, section 25.103 (d), has been interpreted by the Comptroller General as applying only so long as the employee continues to occupy the exact same position he occupied at the time of his transfer.

For example, an employee who was transferred from the Post Office Department and whose position as of the date of his transfer was classified as laborer, CPC–2, who is currently receiving a salary in excess of the maximum scheduled rate of the grade by reason of the protection afforded by the "savings clause" must, upon reassignment to an equivalent graded position of elevator operator, CPC–2, be reduced in compensation to the maximum scheduled rate of the grade on the basis that he no longer continues to occupy the same position he occupied at the time of his transfer. This interpretation materially hinders the Administration and works adversely with respect to the morale and welfare of the employees concerned when, for purposes of administrative efficiency and economy, it is necessary and desirable to reassign them to different lines of work at the same grade level. It is believed that this currently required reduction in the employees' salary is not in line with the understanding of the Congress or of the Administration when consideration was being given to Reorganization Plan No. 18. Specifically, in the course of the hearings on Reorganization Plans Nos. 17 and 18, of May 16, 1950, the following discussion took place (p. 119):

"Senator SCHOEPPEL. I would like to say this: There has been some concern expressed here by the previous witness that perhaps an employee might be transferred.

"Now, in your civil-service set-up, certainly there ought to be some way to protect that individual so that if he is transferred, he would not be required to take a lesser salary by being transferred.

"I would like to get that clear in my mind.

"Mr. (ISMAR) BARUCH (Chief, Personnel Classification Division, Civil Service Commission). *Senator, if he is transferred to an equivalent graded position, he takes no cut in pay whatever.* If he is transferred to a higher grade position he gets the equivalent of one step increase. [Italics supplied.]

"In other words, his salary is increased one step on the transfer.

"Senator SCHOEPPEL. I am glad you covered that now That was going to be my next question.

"Mr. BARUCH. But if he is transferred to a lower grade position, under certain circumstances he might have to take a cut in pay. For example, through some circumstances suppose we have to transfer a journeyman mechanic to a laborer's job. It would be permissible to give that man the maximum rate of the laborer's job, but if that happened to be below the rate he was receiving as a journeyman mechanic, that would be a cut in pay for him.

"Senator SCHOEPPEL. Could that be done under this agreement that you have now?

"Mr. BARUCH. Yes, sir; that could be done, because in that case he would not continue to occupy the same position."

In view of the above, this Administration believes it necessary and desirable that legislation be enacted to provide against the reduction in the compensation of employees transferred from the Post Office Department solely by reason of their being reassigned between positions of the same Classification Act grade.

For the above outlined reasons, the attached suggested draft of legislation has been developed, and in fairness and equity to the personnel who will be affected by it, we urge that it be promptly and favorably considered.

It is not possible without a detailed review of each individual transfer to state accurately the cost of this legislation. However, attention is invited to the fact that it simply preserves rights which the individuals had earned under applicable law, if the transfer pursuant to Reorganization Plan No. 18 had not been effected.

The Bureau of the Budget has advised that this proposed legislation is in accord with the President's program.

Respectfully yours,

RUSSELL FORBES,
Acting Administrator.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington 25, D. C., June 11, 1952.

Hon. TOM MURRAY,
Chairman, Committee on Post Office and Civil Service,
House of Representatives.

MY DEAR MR. CHAIRMAN: Reference is made to your letter of May 29, 1952, acknowledged by telephone June 4, requesting a report upon H. R. 8006, Eighty-second Congress, entitled, "A bill to provide for an adjustment in the compensation of certain employees transferred from the field service of the Post Office Department to the General Services Administration pursuant to Reorganization Plan No. 18 of 1950, and for other purposes."

Section 1 of the bill provides that employees who were transferred, effective July 1, 1950, to the General Services Administration pursuant to Reorganization Plan No. 18 of 1950, and who had completed sufficient service during the preceding quarter to entitle them, had they not been transferred, to an annual automatic promotion under the Postal Services Pay Act of July 6, 1945 (Public Law 134, 59 Stat. 435, as amended, 39 U. S. C. 864), or to a longevity increase under the act of May 3, 1950 (Public Law 500, 64 Stat. 101), shall be granted such increase in their rate of basic compensation prior to the adjustment in compensation of such employees after the transfer.

Both the provisions of Public Law 134, prescribing annual automatic promotions for postal service employees, and the provisions of Public Law 500, prescribing longevity promotions, require that promotions shall be effective at the beginning of the quarter following the completion of the required service. Hence the custodial employees here involved who no longer were in the postal service on July 1, 1950, the beginning of the quarter following the completion of the required service, did not receive the promotions earned by them on or before June 30, 1950.

The Federal Employees Pay Regulations, sections 25.103 (d) and 25.104 (b) (1) to (5)—referred to as the "savings provisions"—have the effect of permitting a custodial employee to be transferred at a rate not less than the rate he was receiving immediately prior to the effective date of the transfer. In decision of this Office of January 30, 1951 (B–99246, 30 Comp. Gen. 323), to the General Services Administration, copies enclosed herewith, it was held that the involved employees could not receive, effective July 1, 1950, the benefits of such promotions which were earned but not actually received before the effective date of the transfers. Also, your attention is invited to the provisions of section 604 (b) (11) and of section 1105 (b) of the Classification Act of 1949 (63 Stat. 967 and 972, respectively), relative to the adjustment of the initial rates of compensation of certain employees upon the basis of the rate of basic compensation they were receiving prior to the effective date of the application of such provisions.

The provisions of section 1 of the bill would overcome the effect of the Federal Employees Pay Regulations, above, and would permit the employees to receive the benefits of their promotions.

Section 2 of the bill provides that the basic rate of compensation of employees transferred pursuant to Reorganization Plan No. 18 shall not be reduced solely by reason of their subsequently being reassigned or transferred between positions of the same grade of the Classification Act of 1949.

The employees who were receiving compensation at a rate in excess of the maximum scheduled rate for the grade in which their positions were placed were prevented under the provisions of section 25.103 (d) of the Federal Employees Pay Regulations, from suffering a reduction in the rate of basic compensation "only so long as the employee continues to occupy the same position."

By the decision of January 30, 1951, above, question and answer 3, it was held that such an employee may not continue to receive compensation at a rate in excess of the maximum rate for the grade upon his being assigned a change in duties which involves a change in position, even though the positions are in the same grade. It appears that the purpose of section 2 of the bill is to overcome the effect of section 25.103 (d) of the Federal Employees Pay Regulations, above, and the decision of this Office of January 30, 1951.

Section 3 of the bill authorizes retroactive payments in the case of certain individuals. However, the classes of individuals covered do not include employees who died between July 1, 1950, and the effective date of the bill. Inthat connection, compare H. R. 6004, Eighty-second Congress, proposing to make the retroactive compensation benefits of section 23 (b) of the act of October 24, 1951 (Public Law 204, 65 Stat. 633), applicable in the case of deceased employees. If favorable consideration of this feature is desired, section 3 of the bill should be amended to authorize retroactive payments in the case of deceased employees in accordance with the provisions of the act of August 3, 1950 (Public Law 636).

In view of the situation precipitated in the involved cases through operation of Reorganization Plan No. 18, resulting in obvious unintended prevention of automatic increases in compensation which the employees would have received but for said organization plan, I offer no objection to enactment of the proposed legislation.

Sincerely yours,

FRANK L. YATES,
Acting Comptroller General of the United States.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington 25, January 30, 1951.

The ADMINISTRATOR OF GENERAL SERVICES,
General Services Administration.

MY DEAR MR. ADMINISTRATOR: Reference is made to your letter of October 30, 1950, requesting decision upon certain questions relative to the proper rate of compensation for custodial employees who were transferred from the postal service to the General Services Administration in connection with the transfer of certain building management, space assigment, and lease functions from the Post Office Department to the General Services Administration under Reorganization Plan No 18 of 1950, effective July 1. 1950.

The questions arise by reason of the fact that certain of the employees affected had completed sufficient service during the quarter ending June 30, 1950, immediately preceding their transfer, to entitle them, had they not been transferred effective July 1, 1950, to an annual automatic promotion under the Postal Service

Pay Act, of July 6, 1945 (Public Law 134, 59 Stat. 435, as amended, 39 U. S. Code 864) or to a longevity increase under the act of May 3, 1950 (Public Law 500, 64 Stat. 101).

Both the provisions of Public Law 134, prescribing annual automatic promotions for postal service employees, and the provisions of Public Law 500, prescribing longevity promotions, require that the promotions shall be effective at the beginning of the quarter following the completion of the required service. Since the custodial employees here involved, who, during the quarter ending June 30, 1950, had completed the service required for an annual or a longevity promotion, had been transferred to the General Services Administration, and were no longer in the postal service on July 1, 1950, the beginning of the quarter following the completion of such service, there is no authority, of course, for the granting of such promotions upon the basis of legislation applicable exclusively to postal service employees. Thus, the basic question for determination is whether the employees are entitled to comparable increases under the Classification Act of 1949 and the regulations issued pursuant thereto which control the employees' rates of compensation on and after July 1, 1950.

Under section 1101 of the Classification Act of 1949 (Public Law 429, 63 Stat. 971)—authorizing the Civil Service Commission to issue such regulation as may be necessary for the administration of the act—the Commission issued section 25.103 (d) of the Federal Employees Pay Regulations, which makes the provisions of section 25.104 (b) (1) to (5) of such regulations applicable in determining the initial rate of basic compensation of an employee who, together with his position, is brought under the Classification Act of 1949 pursuant to the Reorganization Act of 1949 (63 Stat. 203), such as in the case of the custodial employees here involved. The regulations under the said section 25.104 (b) and under 25.104 (c) were issued to cover cases similar to the instant case, involving employees initially brought under the Classification Act. The former cases arose under section 604 (b) (11), 63 Statutes 967, and section 1105 (b), 63 Statutes 972, which provide, in effect, that an employee who was receiving compensation at a rate in excess of the maximum scheduled rate for the grade in which his position is placed and who receives an initial salary adjustment under the Classification Act of 1949, shall not suffer a reduction in the rate of basic compensation so long as he continues to occupy the same position and grade.

Section 25.104 (b) of the said regulations provides in part as follows:

"(3) If the employee is receiving a rate of basic compensation within the range of salary prescribed for the grade in which his position is placed, but not at one of the rates fixed therein, his compensation shall be increased to the next higher rate.

"(4) If the employee is receiving a rate of basic compensation in excess of the maximum scheduled rate for the grade in which his position is initially placed, no change shall be made in his existing rate."

The "existing rate" of basic compensation, as that term is used in the provisions quoted above, is defined by section 25.102 (i) of the regulations as the rate received immediately prior to the effective date of the transfer, promotion, repromotion, demotion, or step increase.

Your first question is as follows:

"1. Would the Comptroller General feel obliged to object to this Agency's including the longevity increases provided under Public Law 500, for which the necessary service had been completed during the quarter immediately preceding July 1, 1950, in the salaries to be paid to post office employees upon their transfer to General Services Administration, even though such employees are receiving a basic rate of compensation in excess of the maximum scheduled rate of the grade in which their positions were classified at the time of the transfer?"

As an example under that question, there are recited the cases of a guard and an elevator operator, both of whom had completed 13 years of service—the amount of service required for the first longevity increase for postal service employees under Public Law 500—during the quarter ending June 30, 1950. The guard and the elevator operator currently are receiving compensation at the rates of $3,170 and $2,970 per annum, the rates which they were receiving as postal service employees on June 30, 1950, under sections 14 (g) and 14 (h), respectively, Public Law 134, as amended, 39 United States Code 864. Said rates are equal to or in excess of the maximum schedule within-grade and longevity rates for the grades of the positions in which they were placed under the Classification Act of 1949, CPC–4 and CPC–2.

Under the term "existing rate" of basic compensation as defined in section 25.102 (i) of the regulations above, the existing rates for consideration in deter-

mining the proper rates of compensation for the guard and the elevator operator are the rates the employees were receiving on June 30, 1950, and not the rates to which their compensation might have been increased on July 1, 1950, by reason of a longevity promotion had they remained in the postal service. Accordingly, in answer to your first question, you are advised that, in view of the provisions of the Federal Employees Pay Regulations above, this Office would be required to object to the inclusion of the longevity increase as a part of the "existing rate" of compensation saved to the guard and elevator operator upon transfer to the General Services Administration.

The second question presented is whether there would be any objection for an employee who, before transfer, was receiving less than the maximum rate of compensation prescribed for the grade in which his position is placed under the Classification Act of 1949 to have his rate of compensation converted to the comparable rate in grade after the addition of a longevity increase. As an example under that question you cite the case of a chief telephone operator receiving compensation on June 30, 1950, at the rate of $3,470 per annum, under section 14 (e) of Public Law 134, 59 Statutes 448, as amended (39 U. S. C. 864), whose rate of compensation would be converted to GS–5, step 4, $3,475 per annum, if the longevity increase under Public Law 500 were not included, or to GS–5, step 5, $3,600 per annum, if the longevity increase were included. The within-grade rates of compensation for GS–5 range from the minimum of $3,100 per annum to the maximum of $3,850 per annum, and the maximum longevity of $4,225 per annum.

In line with the answer to the first question, the longevity increase for which the required service had been completed as a postal service employee during the quarter ending June 30, 1950, is not for consideration as a part of the basic compensation which, upon transfer, is saved to the employee under section 25.104 (b) (3) of the regulations, quoted above, where, as here, the rate of compensation as a postal service employee is within the range of salary prescribed for the grade in which his position is placed but does not correspond to any of the rates established therefor. Your second question is answered accordingly. However, in the case of this employee, who has not reached the maximum rate for his grade, your attention is invited to the provisions of section 701 (a), Public Law 429, 63 Statutes 967, relative to periodic step increases under which the employee may have acquired some benefits upon transfer to the General Services Administration. (Cf. 21 Comp. Gen. 313.)

The third question which you present is stated as follows:

"3. Would the Comptroller object to preserving the compensation of personnel so transferred under Reorganization Plan No. 18, when, in the interest of increased efficiency, a person drawing compensation in excess of the maximum rate, be assigned a change in duties within the same grade?"

This question is illustrated in your letter by the reassignment of a laborer, CPC–2, receiving compensation in excess of the maximum scheduled rate in the grade, to perform the duties of an elevator operator, which is in the same grade, CPC–2. As pointed out in your letter, the provisions of the Federal Employees Pay Regulations providing against a reduction in compensation upon transfer, such as here involved, apply, under section 25.103 (d), "only so long as the employee continues to occupy the same position." It is urged in your letter that the words "the same position," as used in the regulations, were intended to mean "an equivalent rated position."

The term "position" is defined by section 301 (1) of the Classification Act of 1949 (63 Stat. 957), as "the work, consisting of the duties and responsibilities, assignable to an officer or employee." It is presumed that the Civil Service Commission used the word "position" in the Federal Employees Pay Regulations within the meaning of that word as defined by the Classification Act of 1949. Under that definition, it is clear that an employee who is reassigned from the duties prescribed for one position to the duties prescribed for another position would not continue to occupy the same "position" within the meaning of that word as used in the regulations, even though the change in duties does not involve a change in grades. The definition of the word "position," as meaning "equivalent graded position," as proposed in your letter, is more nearly within the definition of the words "class," or "class of positions," and "grade," as those words are defined by subsections (2) and (3) of section 301 of the Classification Act of 1949 (63 Stat. 957).

Accordingly, a custodial employee transferred from the postal service to the General Services Administration under Reorganization Plan No. 18 at a rate of compensation in excess of the maximum rate for the grade in which his position is initially placed may not continue to receive compensation at a rate in excess of

the maximum rate for the grade under subsection (b) (4) of section 25.104 of the Federal Employees Pay Regulations upon his being assigned a change in duties which involves a change in position as defined by the Classification Act of 1949, even though the positions are in the same grade.

Your last question is whether automatic annual grade increases of $100 each prescribed for postal service employees under Public Law 134, which the custodial employees here involved would have received effective July 1, 1950, had they not been transferred, may be included in determining the compensation to be paid such employees now in the General Services Administration, even though these employees are receiving compensation in excess of the maximum rate for the grade in which their positions are initially placed under the Classification Act of 1949.

Public Law 134 prescribes, in general, annual automatic promotions from one grade to another "at the beginning of the quarter following one year's satisfactory service in each grade." For example, see sections 14 (b) through 14 (k), Public Law 134, 59 Statutes 447, 449.

As indicated above, the existing rate of basic compensation saved to an employee under section 25.104 (b) (4) of the Federal Employees Pay Regulations is the rate the employee was receiving on June 30, 1950, and not the rate to which his compensation might have been increased on July 1, 1950, had he remained in the postal service. Accordingly, an annual automatic increase for which the required service had been completed during the quarter ending June 30, 1950, as a postal service employee, is not for consideration as a part of the "existing rate" of compensation saved to the employee upon transfer to the General Services Administration. This is true whether the employee is receiving compensation at a rate in excess of the maximum rate or at a rate within the range of salary prescribed for the grade in which his position is placed initially under the Classification Act of 1949. However, in the latter event, the employee may have become entitled to a periodic step-increase under the provisions of section 701 (a), Public Law 429, as indicated above in the answer to question 2.

Sincerely yours,

LINDSAY C. WARREN,
Comptroller General of the United States.

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